

REMARKS

This Response is submitted in reply to the Office Action dated December 13, 2005. Claims 15, 18 and 21 are currently amended. Claims 1 to 14 stand cancelled without prejudice or disclaimer. New Claims 22 to 28 have been added. The specification is also amended. No new matter has been added by any of these amendments.

A Request for Continued Examination, a Petition for a Three Month Extension of Time to file this Response and a Supplemental Information Disclosure Statement are submitted herewith. Please charge deposit account number 02-1818 for any fees which are due and owing in connection with this Response, the RCE, Extension of Time and Supplemental IDS.

The Office Action rejected Claim 15 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action states that the language "the frequency with which a secondary game is triggered is constant and predetermined with the prompting of each play" in Claim 15 is new matter not disclosed in the disclosure as originally filed. However, Page 5, lines 4 to 17 appears to disclose a game designer selecting a pay back percentage for the secondary game based on the frequency of the trigger of the secondary game and the awards provided in the secondary game. This disclosure (in addition to the disclosures on page 10, line 10 to page 11, line 9; and page 11, lines 15 to 20) appears to provide support for such element. Accordingly, it is respectfully submitted that this rejection be withdrawn.

The Office Action rejected Claims 15 to 17 under 35 U.S.C. §103(a) as being unpatentable over U.S. Published Patent Application No. 2005/0026678 to Kaminkow in view of U.S. Patent No. 6,3009,300 to Glavich.

Kaminkow discloses a gaming device including a rotatable mechanical award indicator which has a plurality of award symbols. The gaming device includes a mask, preferably overlaying the mechanical award indicator, which reveals only a predetermined number of the award symbols.

Glavich discloses a gaming device with a bonus feature that is initiated upon the occurrence of a bonus trigger event. In some embodiments, the bonus trigger may occur in a fashion substantially unrelated to play of the main game, such as in response to passage of a certain amount of time, or may be declared at randomly selected times.

The Office Action states that neither Kaminkow nor Glavich explicitly disclose setting a predetermined constant frequency of triggering the secondary game. The Office Action further concludes that since it would have been well known that the primary game can be set to last a certain amount of time when the duration of playing the primary game is previously determined fixed, the frequency of triggering the secondary game at a fixed duration is inherently fixed and the number of triggering the secondary game is predetermined by the predetermined duration of the primary game. To the contrary, a fixed duration of the primary game does not infer setting a predetermined constant frequency of triggering the secondary game. The electronic gaming apparatus of amended independent Claim 15 includes a processor which randomly selects, independent of the primary game outcome, between a secondary game trigger or no trigger condition, such that the frequency with which a secondary game is triggered is independent of the primary game payback percentage, constant and predetermined with the prompting of each play.

Moreover, neither Kaminkow nor Glavich individually, nor the electronic gaming apparatus resulting from the combination of Kaminkow and Glavich renders obvious an electronic gaming apparatus wherein a selection of a secondary game trigger or no trigger condition is independent of the primary game payback percentage. Amended independent Claim 15 is directed to an electronic gaming apparatus wherein a selection of a secondary game trigger or no trigger condition is independent of the primary game payback percentage. Accordingly, for these reasons, amended independent Claim 15 is patentably distinguished over Kaminkow and Glavich and in condition for allowance.

Claims 16 and 17 depend directly or indirectly from independent Claim 15 and are also allowable for the reasons given with respect to Claim 15, and because of the additional features recited in these claims.

The Office Action rejected Claims 18 to 21 under 35 U.S.C. §103(a) as being unpatentable Kaminkow in view of U.S. Published Patent Application No. 2004/0077403 to Maya et al. ("Maya").

Maya discloses a gaming device with a bonus or secondary game that is triggered upon a triggering event or qualifying condition. In one embodiment, the triggering event or qualifying condition may be by exceeding a certain amount of game play (number of games, number of credits, amount of time), reaching a specified number of points earned during game play or as a random award.

In response to the Response to Office Action filed on September 30, 2005, the Office Action states that even though the "random award" taught in paragraph 0077 [of Maya] happens during the primary game, the "random award" does not depend on the primary game outcome because the award is just "randomly" triggered. The Office Action continues that since the award is randomly provided, it cannot depend on any outcome. The remarks in the Response to Office Action dated September 30, 2005 appear to be correct. Nonetheless, to expedite prosecution of this patent application, Claims 18 and 21 have been further differentiated over Kaminkow and Maya.

Neither Kaminkow nor Maya individually, nor the electronic gaming apparatus resulting from the combination of Kaminkow and Maya render obvious an electronic gaming apparatus wherein each secondary game trigger is associated with a secondary game award and the secondary game award identified is the secondary game award associated with the selected secondary game trigger. Amended independent Claim 18 is directed to an electronic gaming apparatus wherein each secondary game trigger is associated with a secondary game award and the secondary game award identified is the secondary game award associated with the selected secondary game trigger. Accordingly, for this reason, amended independent Claim 18 is patentably distinguished over Kaminkow and Maya and in condition for allowance.

Claims 19 and 20 depend directly or indirectly from independent Claim 18 and are also allowable for the reasons given with respect to Claim 18, and because of the additional features recited in these claims.

Moreover, neither Kaminkow nor Maya individually, nor the electronic gaming apparatus resulting from the combination of Kaminkow and Maya render obvious an electronic gaming apparatus wherein if a wager is at least a designated wager amount, a processor randomly selects, independent of the primary game outcome, the primary game payback percentage and the size of the wager, between a secondary game trigger or no trigger condition. Amended independent Claim 21 is directed to an electronic gaming apparatus wherein if a wager is at least a designated wager amount, a processor randomly selects, independent of the primary game outcome, independent of the primary game payback percentage and independent of the size of the wager, between a secondary game trigger or no trigger condition. Accordingly, for this reason, amended independent Claim 21 is patentably distinguished over Kaminkow and Maya and in condition for allowance.

Applicant respectfully submits that new Claims 22 to 28 are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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BY



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